

WIRE ROD PRODUCERS COALITION

**STATEMENT IN OPPOSITION TO S. 1167, A BILL TO PROVIDE THAT CERTAIN
WIRE RODS SHALL NOT BE SUBJECT TO ANTIDUMPING OR COUNTERVAILING
DUTY ORDER**

**Paul C. Rosenthal
Kelley Drye Collier Shannon
3050 K Street, NW
Suite 400
Washington, DC 20007
202-342-8485 (tel)
202-342-8451 (fax)
prosenthal@kelleydrye.com**

On behalf of the Wire Rod Producers Coalition

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**STATEMENT OF THE WIRE ROD PRODUCERS COALITION IN OPPOSITION TO
S. 1167, A BILL TO PROVIDE THAT CERTAIN WIRE RODS SHALL NOT BE
SUBJECT TO ANY ANTIDUMPING DUTY OR COUNTERVAILING DUTY ORDER**

The Wire Rod Producers Coalition, domestic producers of carbon and alloy steel wire rod strongly opposes S. 1167, which would legislatively exclude certain wire rods (specifically grade ER70S-7, commonly referred to as "S-6") from the scope of any antidumping and countervailing duty orders on steel wire rod. The Wire Rod Producers Coalition includes Mittal Steel Georgetown - USA, of Georgetown, South Carolina; Rocky Mountain Steel Mills of Pueblo, Colorado; Keystone Consolidated Industries of Peoria, Illinois and Dallas, Texas; and, Gerdau Ameristeel, with facilities in Florida, New Jersey, Pennsylvania, Kentucky, Texas and Tennessee. This bill, S. 1167, was introduced by Senator Voinovich, apparently at the request of Lincoln Electric Holdings Inc., of Cleveland, Ohio.

The domestic steel wire rod industry strongly opposes the bill or its inclusion in any miscellaneous tariff legislation. Any attempt to legislatively exclude certain products from antidumping or countervailing duty orders is by its very nature controversial because imports of such products have been found to contribute to the material injury of the domestic industry producing them. In this case, the Department of Commerce, the agency with expertise in such matters, has already administratively determined that an exclusion for S-6 wire rod was not warranted on existing antidumping and countervailing duty orders. The proposed legislation goes even farther, however, preventing the application of antidumping or countervailing duties that may be applied in any future cases, regardless of the ability of the domestic industry to produce the product or of the level of dumping or subsidization or material injury caused by such imports. Such a broad exclusion from antidumping duty and countervailing duty laws should not be the subject of legislation, much less miscellaneous tariff legislation.

BACKGROUND

On August 31, 2001, members of the Wire Rod Producers Coalition filed antidumping and countervailing duty petitions against unfairly traded steel wire rod from a number of countries. The United States International Trade Commission found that the domestic wire rod industry was being materially injured by dumped and subsidized imports from various countries. In late 2002, antidumping duty orders were entered against dumped steel wire rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine. Countervailing duty orders were entered against steel wire rod from Brazil and Canada. The countervailing duty order against Canada was later withdrawn.

The Department of Commerce has administrative procedures for considering amendments to the scope of antidumping and countervailing duty orders. During the course of the antidumping and countervailing duty investigations on steel wire rod, Lincoln Electric Holdings Inc., of Cleveland, Ohio, requested that the Commerce

Department exclude from the scope of the investigations certain wire rods made to the American Welding Society ER70S-6 classification. The domestic industry objected to this request on the grounds that it can and does produce this product and, on August 30, 2002, Commerce found that an exclusion for this product was not warranted. See, e.g., *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 Fed. Reg. 55,805 (August 30, 2002).

Having failed to obtain exclusion of ER70S-6 through the administrative process available to it, Lincoln Electric has several times sought a legislative solution to permit it to import dumped and subsidized ER70S-6. For example, on September 19, 2002, Senator Voinovich (R-OH) introduced on Lincoln Electric's behalf S. 2981, a bill that would have excluded ER70S-6 from the scope of any AD/CVD orders that were the result of the domestic industry's petitions. That bill was referred to the Committee on Finance, where no action was taken.

On February 26, 2003, Mr. Voinovich reintroduced the same bill as S.456, which was referred to the Committee on Finance. Lincoln Electric indicated its desire to have this bill attached to the Senate version of the Miscellaneous Trade and Technical Corrections Act of 2003 or some other appropriate vehicle. The domestic industry opposed the exclusion request, and it was not attached to any legislation in 2003.

During 2003, the domestic industry produced ER70S-6 for other customers and successfully produced this product to Lincoln Electric's specification. Mittal Steel's Georgetown mill (formerly ISG Georgetown) was closed between November 2003 and August 2004, during which period it was bought out of bankruptcy by ISG. Production of wire rod began again on at this mill in August 2004, and Mittal Steel Georgetown has since produced other welding rod products for Lincoln Electric and ER70S-6 for other customers.

Gerdau Ameristeel's Beaumont, Texas, facility has the ability to produce this product on its existing equipment using purchased billets on a mill that was recently upgraded in a manner to permit enhanced production of welding wire rods. In 2003, Lincoln suspended efforts to produce trials of S-6 material at this mill when it was owned by North Star Steel on the basis of price. While some domestic customers have chosen to purchase domestic ER70S-6, Lincoln Electric has to date instead continued to import its requirements of ER70S-6 from countries subject to the antidumping duty orders.

Two domestic producers, Mittal Steel Georgetown and Rocky Mountain Steel Mills, recently asked Lincoln Electric for the opportunity to qualify to produce its ER70S-6. Both are currently in trials to produce ER70S-6 for Lincoln Electric to Lincoln's specifications. Those trials are not yet complete.

REASONS FOR DOMESTIC INDUSTRY OPPOSITION TO THE EXCLUSION

The domestic wire rod industry strongly opposes any such legislative exclusion to the antidumping and countervailing duty orders because Lincoln Electric has already sought and been denied an exclusion for this product by the Commerce Department, the agency with the authority and expertise to evaluate such requests. The proper place for determining exclusions should be with the agencies that enforce the trade laws.

The Commerce Department has an administrative procedure known as a “changed circumstance review” that would permit purchasers to seek an administrative exclusion to the antidumping and countervailing duty orders if the facts have changed since the denial of the exclusion. To grant a legislative exclusion would undermine the administrative process and lead to other attempts to weaken these antidumping and countervailing duty orders by legislatively excluding other products that the domestic industry can produce. In addition, the proposed legislation seeks to prevent the application of antidumping and countervailing duties in any future cases regardless of the facts. Such a broad and indiscriminate exclusion cannot be justified.

An exclusion for ER70S-6 will undermine the intended relief to the domestic steel wire rod industry that the existing antidumping and countervailing duty orders are providing and permit unfairly traded imports to enter the United States, unencumbered by the discipline of the orders. Prior to the antidumping orders, the domestic industry had undergone five straight years of operating losses and a raft of plant closure and bankruptcies caused by unfairly traded imports. Absent these orders, the condition of the domestic industry would have continued to decline, particularly in the difficult economy characterized today by increasing costs.

This bills would also provide a permanent exemption from any future antidumping or countervailing duty order against S-6 from any country. The application of the exclusion to future cases will hinder the domestic steel wire rod industry’s ability to seek relief from unfairly traded and injurious imports of steel wire rod in the future. This would be an unprecedented step that would undermine the trade laws by preventing application of those laws where it is demonstrated that such imports are unfairly traded and causing material injury to the domestic industry. Such a law would also undermine the authority of the United States International Trade Commission and the Commerce Department, as well as impair the rights of the domestic wire rod industry. There is no need to grant relief against antidumping or countervailing duty orders that do not yet exist. All such relief must be viewed on a case by case basis and should not be granted as a prophylactic measure. Indeed, the prohibition on future duties in the bill may also violate Article 14 of the WTO Antidumping Code by impairing the rights of third countries to bring antidumping suits against imported S-6 in the United States.

ER70S-6 is a product that can be and is produced domestically. Using current equipment and production techniques, domestic producers believe that they can produce S-6 to meet the mechanical and chemical requirements set by Lincoln. It is not

necessary to employ the processes stated in the bill to meet the technical requirements for S-6 wire rod, and such processes are designated for the sole purpose of precluding domestic producers from this business. As noted above, Mittal Steel Georgetown and Rocky Mountain are both in current trials with Lincoln to produce ER70S-6 to Lincoln's specifications. Such trials require a good faith effort and continuing cooperation from both the rod producers and Lincoln Electric. An exemption from all current and future antidumping orders will remove much of this incentive for Lincoln to continue trials.

In addition to Mittal Steel Georgetown, Gerdau Ameristeel and Rocky Mountain Steel, Commercial Metals Corp, Republic Technologies and Charter Steel are also believed to be able to produce these products. To grant the legislative exclusion proposed will undermine the efforts of domestic producers to produce and market this product and will undercut the capital investments that have been made and are being made by the domestic industry to produce this and other steel wire rod products. A legislative exclusion will remove any incentive for Lincoln Electric and other purchasers to develop domestic suppliers for this product. The other major consumers of S-6 are Hobart (an ITW company), ESAB (a division of a Swedish company located in Ashtabula Ohio) and National Standard, located in Niles, MI and Stillwater, OK. These producers of S-6 welding wire have purchased S-6 from domestic sources.

Lincoln Electric and other consumers of S-6 are not precluded from purchasing imported ER70S-6 if an exclusion from the antidumping and countervailing duty orders is not granted. The antidumping and countervailing duty orders do not cover all import sources, nor do they create quotas. Purchasers have the choice of purchasing such products from domestic producers, from foreign producers not subject to the order, or from producers subject to the orders at fair market prices (i.e., with the payment of antidumping and/or countervailing duties).

Exclusions to antidumping and countervailing duty orders should be addressed on a case-by-case basis at the agencies that enforce those laws. This bill, and the undermining of the antidumping and countervailing duty orders on steel wire rod (and indeed on the antidumping and countervailing duty laws themselves) that it will engender, is highly controversial and perhaps contrary to United States obligations under the WTO. It should not be the subject of a miscellaneous tariff bill.



**American
Iron and Steel
Institute**



**SPECIALTY STEEL INDUSTRY
OF NORTH AMERICA**

3050 K Street, N.W.
Washington, D.C. 20007
TEL: (202) 342-8630 or (800) 982-0355
FAX: (202) 342-8631
www.ssina.com



August 25, 2006

Senate Finance Committee
219 Dirksen Senate Office Building
Washington, D.C. 20510

Re: American Iron and Steel Institute, Specialty Steel Industry of North America, Steel Manufacturers Association, and United Steelworkers Opposition to S. 1167

In response to the Senate Finance Committee's July 11, 2006 request for comments on miscellaneous tariff provisions, we are writing to express our opposition to S. 1167, a bill to provide that certain wire rods shall not be subject to any antidumping duty or countervailing duty order. This bill is highly controversial and definitely does not meet the guidelines for miscellaneous tariff bills set forth by Chairman Grassley and Senator Baucus in their April 21 letter to Senate colleagues.

Since late 2002, imports of carbon and alloy steel wire rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine have been subject to antidumping duties following a successful petition by members of the carbon steel wire rod industry. Imports from Brazil are also subject to countervailing duties to offset government subsidies. S. 1167 would legislatively exclude ER70S-6 ("S-6") from these orders, or any future orders. The bill is offered on behalf of one importer, Lincoln Electric Holdings Inc. of Cleveland, Ohio, which tried to exclude this product from the orders through the normal administrative process. Commerce found that an exclusion was not warranted. Lincoln has since tried to get the Congress to grant legislatively the exclusion it could not get through the normal administrative channels.

The undersigned organizations oppose this effort to seek a private remedy to an antidumping/countervailing duty order through a miscellaneous tariff bill. After a domestic industry and its workers invest considerable time, effort and money in seeking a remedy against unfairly traded imports, it would be highly inappropriate for the Congress to undercut that remedy through legislative action. Passage of S. 1167 would weaken not only the existing orders on carbon wire rod but set a terrible precedent with respect to implementation of our unfair trade laws.

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We urge the Committee not to include S. 1167 in any miscellaneous tariff bill that it considers.

American Iron and Steel Institute
1140 Connecticut Avenue, NW, Suite 705
Washington, DC 20036
Phone: 202-452-7146
Fax: 202-452-1039
Contact: Andrew G. Sharkey, III,
President and Chief Executive
Officer
Email: Asharkey@steel.org

Specialty Steel Industry of North America
3050 K Street, NW
Suite 400
Washington, DC 20007
Phone: 202-342-8485
Fax: 202-342-8451
Contact: David H. Hartquist, Esq.
Kelley Drye Collier Shannon
Email: hartquist@kelleydrye.com

Steel Manufacturers Association
1150 Connecticut Ave. NW, Suite 715
Washington, DC 20036
Phone: 202-296-1515
Fax: 202-296-2506
Contact: Thomas A. Danjczek
Email: danjczek@steelnet.org

United Steelworkers
1150 17th Street, NW, Suite 300
Washington, DC 20036
Phone: 202-778-4384
Fax: 202-293-5308
Contact: Holly R. Hart, Assistant Director,
Legislative Department
Email: hhart@usw.org

Wire Rod Producers Coalition
3050 K Street, NW
Suite 400
Washington, DC 20007
Phone: 202-342-8485
Fax: 202-342-8451
Contact: Paul C. Rosenthal, Esq.
Kelley Drye Collier Shannon
Email: prosenthal@kelleydrye.com